

EXHIBIT J

IN THE COURT OF THE SECOND JUDICIAL CIRCUIT IN AND FOR
LEON COUNTY, FLORIDA

THE STATE OF FLORIDA)

ex rel.)

VEN-A-CARE OF THE)
FLORIDA KEYS, INC.,)
a Florida Corporation, by)
and through its principal)
officers and directors,)
ZACHARY T. BENTLEY and)
T. MARK JONES,)

Plaintiffs,)

VS.)

CIVIL ACTION NO.
98-3032A

BOEHRINGER INGELHEIM)
CORPORATION; DEY, INC.; DEY,)
L.P.; EMD PHARMACEUTICALS,)
INC.; LIPHA, S.A.; MERCK,)
KGaA; MERCK-LIPHA, S.A.;)
SCHERING CORPORATION;)
SCHERING-PLOUGH CORPORATION;)
ROXANE LABORATORIES, INC.;)
and WARRICK PHARMACEUTICALS)
CORPORATION,)

Defendants.)

--*-*-*

VIDEOTAPED DEPOSITION OF TODD CHRISTOPHER GALLES
Volume 2

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1 In what customer segment did Dey have
2 the largest market share?

3 A. Hospital.

4 Q. And what's the reason for Dey's success in
5 the hospital market?

6 A. There are several reasons. The hospital is
7 kind of a closed system with respiratory therapists
8 right within the system. So respiratory therapists
9 were the people that would administer the nebulized
10 solutions directly to patients. And much like in the
11 outside world you would have to go to a physician, to
12 a pharmacy, but that was all contained in one closed
13 unit, if you will. And so it was very easy for a
14 small sales force like Dey to get to respiratory
15 therapists as a department and talk to them about
16 product features and benefits.

17 And so the features and benefits that
18 were important to patients also were important to
19 respiratory therapists. And so we were able to take
20 our product, show the respiratory therapists what they
21 would be able to use. That it would have color-coded
22 labels, which was important because most unit-dose
23 products were only embossed so it's kind of hard to
24 read. So in a flash you could see what medication you
25 were giving. So that was good for a hospital because

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1 it reduced medication -- or potential medication
2 errors.

3 The product was sterile in -- in all, in
4 the case for Albuterol cromolyn and Ipratropium. In
5 the case of Albuterol it did not use a preservative,
6 so there was less chance for a reaction to the
7 preservative. So they liked that.

8 For a unit-dose compared to a
9 multi-dose, it was a unit of use which meant that it
10 was sterile and then used and then thrown. And
11 compared to a multi-dose, a multi-dose you would -- it
12 was a concentrate that you'd take a dropper out, drop
13 it into a nebulizer cup and then put the dropper back
14 in. And in the hospital and respiratory care units
15 there's a lot of airborne bacteria and things, and so
16 it reduced the chance for cross contamination. That
17 was a very big event in the hospitals.

18 So there were all those benefits, plus
19 the efficient packaging had a benefit to the shelf
20 space. RT departments were generally very small, so
21 they really liked that the packaging was very
22 organized and as small as possible. And that there
23 were three package sizes so that they could easily get
24 them from the hospital pharmacy.

25 So it just -- everything that we had was

1 a perfect match to the RT. So that's why we were
2 number one in the hospital.

3 Q. Okay. Was Medicaid reimbursement important
4 to Dey's hospital customers?

5 A. I don't think so, no.

6 Q. Okay. Were you involved in the launch of
7 Ipratropium -- strike that.

8 Were you involved in the launch of Dey's
9 generic Ipratropium product?

10 A. Yes.

11 Q. And approximately when did that launch
12 happen?

13 A. Probably 1996 or '97.

14 Q. Okay. And can you please tell the jury in
15 layman terms what Dey's generic Ipratropium drug is
16 used for and what patient population uses the drug?

17 A. It is an anticholinergic drug that's used in
18 treating patients with chronic obstructive pulmonary
19 disease. The vast majority of those patients are
20 former smokers that have damaged their lungs and they
21 don't have the mechanism to cough up mucus and things
22 like that. So the product loosened up the mucus and
23 enabled them to cough it up and reduce the tendency to
24 have bronchospasms, et cetera, as I remember it, so...

25 Q. And again, what's the patient population that

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1 would use Dey's generic Ipratropium?

2 A. Patients that had COPD, chronic obstructive
3 pulmonary disease, and older patient population.

4 Q. And is COPD a leading cause of death in the
5 United States?

6 A. Yes.

7 Q. Do you know where on the ranking COPD is in
8 terms of being a leading cause of death in the United
9 States?

10 MR. ANDERSON: Objection, form.

11 Q. (BY MS. GIULIANA) If you don't, that's fine.

12 A. A number seven pops in mind, but I don't
13 remember.

14 Q. Okay. Okay. What is the benefit to the
15 patient that uses Dey's generic Ipratropium product?

16 A. Generally it helps the patient's quality of
17 life. It generally worked -- can be used along with
18 an Albuterol. So they can use a chronic med to
19 control -- to control the -- to control the
20 inflammation and then they could use an Albuterol-type
21 product as a rescue med. But generally it just
22 increases their quality of life and maybe they don't
23 have to be on oxygen or something like that.

24 Q. Okay. And what are the benefits to the nurse
25 or respiratory therapist who administers these generic

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1 the bottom --
 2 Q. Okay.
 3 A. -- so...
 4 MS. GIULIANA: Okay. Thank you. I have
 5 no further questions at this time.
 6 MR. McDONALD: I don't have any further
 7 questions.
 8 MR. ANDERSON: The Relator has no
 9 further questions.
 10 MR. McDONALD: Jordan?
 11 MR. HEINZ: No further questions for
 12 Roxane.
 13 THE VIDEOGRAPHER: Okay. Off the
 14 record? We are off the record at 4:01 p.m. This
 15 concludes Tape Number 9.

16
 17 (Deposition closed at 4:01)
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1 CHANGES AND SIGNATURE
 2 PAGE LINE CHANGE REASON
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1 I, TODD CHRISTOPHER GALLES, have read the
 2 foregoing deposition and hereby affix my signature
 3 that same is true and correct, except as noted above:
 4
 5
 6 TODD CHRISTOPHER GALLES
 7
 8
 9 THE STATE OF)
 10 COUNTY OF)
 11 Before me, , on this day
 12 personally appeared TODD CHRISTOPHER GALLES, known to
 13 me (or proved to me under oath or through
 14) (description of identity
 15 card or other document) to be the person whose name is
 16 subscribed to the foregoing instrument and
 17 acknowledged to me that they executed the same for the
 18 purposes and consideration therein expressed.
 19 Given under my hand and seal of office this
 20 day of , 2006.
 21
 22
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 25

NOTARY PUBLIC IN AND FOR
 THE STATE OF

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1 STATE OF TEXAS)
 2 COUNTY OF TRAVIS)
 3
 4
 5 I, CYNTHIA VOHLKEN, CSR #1059, do hereby
 6 certify that, pursuant to the agreement hereinabove
 7 set forth, there came before me on the 1st day of
 8 March, 2006, at 9:01 o'clock a.m., at the COPIA: The
 9 American Center for Wine, Food & the Arts, 500 First
 10 Street, Napa, California, the following named person,
 11 to-wit: TODD CHRISTOPHER GALLES, who was by me
 12 previously sworn to testify to the truth and nothing
 13 but the truth of witness' knowledge touching and
 14 concerning the matters in controversy in this cause;
 15 that such witness was thereupon examined under oath,
 16 and the examination transcribed by computer-assisted
 17 transcription by me or under my supervision, and that
 18 the deposition is a true record of the testimony given
 19 by the witness.
 20 I further certify that I am neither attorney
 21 nor counsel for, nor related to or employed by, any of
 22 the parties to the action in which this deposition is
 23 taken and, further, that I am not a relative or
 24 employee of any attorney or counsel employed by the
 25 parties hereto, or financially interested in the

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1 action.

2 IN WITNESS WHEREOF I have hereunto set my
3 hand on this 13th day of March, A.D. 2006.

4
5
6
7

Cynthia Vohlken, Texas CSR 1059
Expiration Date: 12/31/2006
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13 JOB NO. 1435

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